

AMENDED IN ASSEMBLY JULY 12, 2007

AMENDED IN SENATE JUNE 18, 2007

AMENDED IN SENATE APRIL 24, 2007

AMENDED IN SENATE APRIL 10, 2007

SENATE BILL

No. 586

**Introduced by Senator Dutton
(Principal coauthor: Senator Correa)**

February 22, 2007

An act to add Section 53545.9 to, and to add Chapter 8.5 (commencing with Section 50705) to Part 2 of Division 31 of, the Health and Safety Code, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 586, as amended, Dutton. Affordable Housing Innovation Fund: Affordable Housing Revolving Development and Acquisition Program.

Existing law, the Housing and Emergency Shelter Trust Fund Act of 2006, authorizes the issuance of bonds in the amount of \$2,850,000,000 pursuant to the State General Obligation Bond Law. Proceeds from the sale of these bonds are required to be used to finance various existing housing programs, capital outlay related to infill development, brownfield cleanup that promotes infill development, and housing-related parks. The act establishes the Housing and Emergency Shelter Trust Fund of 2006 in the State Treasury and requires the sum of \$1,500,000,000 to be deposited in the Affordable Housing Account, which the act establishes in the fund. The act continuously appropriates the money in the account in accordance with a specified schedule that requires, among other things, the transfer of the sum of \$100,000,000

to the Affordable Housing Innovation Fund, which the act establishes in the State Treasury, to be administered by the Department of Housing and Community Development and expended for competitive grants or loans to sponsoring entities that develop, own, lend, or invest in affordable housing, and to create pilot programs to demonstrate innovative, cost-saving approaches to creating or preserving affordable housing.

This bill would establish the Affordable Housing Revolving Development and Acquisition Program under the administration of the department. The bill would authorize applicants under the program to apply for loans to purchase real property for the development or preservation of housing affordable to low-income households and would require applicants to demonstrate certain qualification factors. The bill would require the department to adopt guidelines and regulations establishing the minimum criteria required of the fund manager and applicants, as well as a point system for prioritizing requests in the event that requests exceed the funds available for the program in any given year. The guidelines and regulations would give priority to applicants that proposed development projects with the greatest level of affordability.

The bill would require the department to issue a request for qualification to select a private sector entity to manage the Loan Fund. The bill would establish criteria that the fund manager must meet and would also require applicants for the fund manager position to submit a business plan that addresses appropriate financial and internal controls as well as a description of how the lender would close loans quickly.

The bill would require the funds in the Affordable Housing Innovation Fund to be allocated in the amount of \$50,000,000 for the Affordable Housing Revolving Development and Acquisition Program, of which \$25,000,000 would be made available to the Loan Fund and \$25,000,000 would be made available to the Practitioner Fund; \$5,000,000 for the Construction Liability Insurance Reform Pilot Program, which this bill would establish within the department; \$35,000,000 for a local housing trust fund matching grant program established under a specified provision of existing law; and \$5,000,000 for the Mobilehome Park Resident Ownership Program established under a specified provision of existing law. The bill would make an appropriation by authorizing the funds in the continuously appropriated fund to be expended for these additional purposes.

The bill would require the department to grant preference to a housing trust fund that agrees to expend more than 65% of state funds to a specified first-time homebuyers' program and to set aside funding for a specified 36-month period for newly established housing trust funds that are in a county with a population of less than 425,000 persons when awarding the \$35,000,000 under the local housing trust fund matching grant program.

The bill would establish the School Housing Program under the administration of the department. The purpose of the program would be to establish a pilot program that ~~provided~~ *provides* assistance to school districts and community college districts attempting to attract and retain district employees through provision of on-campus housing.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature hereby finds and declares
- 2 that the Housing and Emergency Shelter Trust Fund Act of 2006
- 3 allocates the amount of one hundred million dollars (\$100,000,000)
- 4 to the Affordable Housing Innovation Fund established in the State
- 5 Treasury under subparagraph (F) of paragraph (1) of subdivision
- 6 (a) of Section 53545 of the Health and Safety Code and ~~state states~~
- 7 that the expenditure of those funds is subject to the enactment of
- 8 a subsequent statute approved by a $\frac{2}{3}$ vote of each house of the
- 9 Legislature.
- 10 (b) Accordingly, it is the intent of the Legislature in enacting
- 11 this act to program the funds made available under subparagraph
- 12 (F) of paragraph (1) of subdivision (a) of Section 53545 of the
- 13 Health and Safety Code from the Affordable Housing Innovation
- 14 Fund.
- 15 SEC. 2. Chapter 8.5 (commencing with Section 50705) is added
- 16 to Part 2 of Division 31 of the Health and Safety Code, to read:

1 CHAPTER 8.5. AFFORDABLE HOUSING REVOLVING
2 DEVELOPMENT AND ACQUISITION PROGRAM
3

4 50705. (a) The Affordable Housing Revolving Development
5 and Acquisition Program is hereby established for the purpose of
6 funding the acquisition of property to develop or preserve
7 affordable housing. The program will be comprised of a Loan Fund
8 and a Practitioner Fund.

9 (b) The department shall adopt guidelines and regulations for
10 the operation of the program and may administer the program
11 under those guidelines for 24 months after the date of adoption of
12 the guidelines. The guidelines and regulations shall not be subject
13 to the requirements of Chapter 3.5 (commencing with Section
14 11340) of Division 3 of Title 2 of the Government Code.

15 50706. (a) (1) The department shall issue a request for
16 qualification to select a private sector entity to manage the Loan
17 Fund for a period of five years, and the agreement may be extended
18 in additional five-year increments. The selected fund manager will
19 be responsible for reviewing and approving loan applications,
20 originating and servicing loans, and establishing terms and
21 conditions for loan applications. The fund manager shall meet all
22 of the following criteria:

23 (A) Be a nonprofit lender with experience making similar loans
24 in this state.

25 (B) Have originated and serviced loans in the aggregate amount
26 of not less than thirty million dollars (\$30,000,000) that were used
27 to develop or acquire affordable housing, including at least ten
28 million dollars (\$10,000,000) or more in acquisition loans.

29 (C) Have at least twenty-five million dollars (\$25,000,000) of
30 its own capital invested in loans to affordable housing developers
31 whose characteristics are similar to the criteria the fund manager
32 will be implementing under the new gap acquisition fund.

33 (D) Be the originator of loans in the aggregate amount of
34 twenty-five million dollars (\$25,000,000) or more using bank or
35 other investor capital.

36 (2) Applicants for fund manager shall submit a detailed business
37 plan describing how the entity intends to meet the requirements
38 of the Loan Fund. The business plan shall include a description of
39 appropriate financial and internal controls and underwriting

standards and procedures. The plan shall also demonstrate how the lender will close loans quickly.

(b) Applicants may apply to the fund manager for loans to purchase real property for the development or preservation of housing affordable to low-income households. Loans made under this section shall be for a maximum term of five years.

(c) Applicants shall demonstrate all of the following:

(1) The support of the local government in which the real property is located for the proposed development project. Support may be demonstrated through a letter from the governing board or the manager of the housing or community development department.

(2) Availability of additional funds equal to three times the loan amount.

(3) Sufficient organizational stability and capacity to carry out the proposed development project for which the property is being purchased. Capacity may be demonstrated by substantial successful experience performing similar activities, or through other means acceptable to the department.

(4) Completion of not less than five housing development projects, with each project having not less than 40 percent of the units sold as affordable housing cost, as defined in Section 50052.5, or rented at an affordable rent, as defined by Section 50053.

(d) The guidelines and regulations shall establish the minimum criteria required of the fund manager and applicants, as well as a point system for prioritizing requests in the event that requests exceed the funds available for the program in any given year. The guidelines and regulations shall give priority to applicants that propose development projects with the greatest level of affordability. The guidelines and regulations shall also provide that, in the event that the property is sold or transferred for purposes other than affordable housing, any equity not originally contributed by the borrower shall return to the state for the purposes of this program.

50707. (a) The department shall issue a request for qualification to select a nonprofit entity that qualifies under Section 501(c)(3) of the Internal Revenue Code to loan moneys from the Practitioner Fund to purchase real property for the development or preservation of housing affordable to low- and moderate-income households. The selection of the entity shall be made by the

1 department's Loan and Grant Committee. The loan from the
2 Practitioner Fund will be for a maximum of five years.

3 (b) The entity selected pursuant to subdivision (a) shall
4 demonstrate all of the following:

5 (1) Operation as a nonprofit entity that qualifies under Section
6 501(c)(3) of the Internal Revenue Code with housing development
7 experience in this state and a minimum of 25 employees.

8 (2) Availability of additional funds of at least three times the
9 loan amount.

10 (3) Completion of not less than 3,000 total housing units, with
11 each housing development project having a majority of its units
12 affordable to low- and moderate-income families, as defined in
13 Section 50052.5. For purposes of this requirement, the applicant
14 shall be the developer of record with primary day-to-day
15 management and financial responsibility for the development.

16 (4) Sufficient organizational stability and capacity to use the
17 Practitioner Fund to achieve scale economies in the development
18 and preservation of affordable housing. Capacity may be
19 demonstrated by substantial successful experience in affordable
20 housing development and management, including successful
21 partnerships with local government entities.

22 (5) Assets worth at least two hundred million dollars
23 (\$200,000,000), to demonstrate evidence of sufficient net worth
24 for assurance of repayment of the loan.

25 (c) The guidelines and regulations shall establish the minimum
26 criteria required of the practitioner and a point system for rating
27 and ranking responses. The guidelines and regulations shall also
28 provide that, in the event that property acquired with state funds
29 is sold or transferred, for purposes other than affordable housing,
30 any equity not originally contributed by the borrower shall be used
31 for the purposes of this program. The department shall give priority
32 to those respondents who demonstrate an immediate need of funds
33 from the committee, or a commitment to provide the greatest level
34 of affordability for the longest duration.

35 50708. (a) *The guidelines and regulations for the fund*
36 *authorized under Sections 50706 or 50707 shall require that before*
37 *expending any state funds, the borrower shall obtain binding*
38 *commitments for at least three dollars (\$3) of nonstate acquisition*
39 *capital to leverage every dollar of loan funds. To be considered*
40 *nonstate acquisition capital, those funds shall be committed for a*

1 term at least equal to the term of the loan made under Sections
2 50706 or 50707, and shall be available to be used for the purposes
3 of those sections. Equity from the anticipated sale of either federal
4 or state low-income housing tax credits shall not be considered
5 nonstate acquisition capital. If the borrower is unable to meet
6 these capital leveraging requirements within 180 days after
7 selection, the loan shall be repaid, with accumulated interest, to
8 the department, deposited in the fund, and made available to the
9 next highest rated qualified project sponsor. If, within 270 days
10 after selection, there is no remaining qualified project sponsor
11 available in the case of the Practioner Fund, any unexpended funds
12 shall be made available for the purposes of Section 50706.

13 (b) In its loan agreement with borrowers, the department shall
14 establish a schedule for the timely expenditure of funds by the
15 sponsor. The department may require repayment in the event that
16 a borrower fails to use the funds consistently with the schedule
17 and the other terms of the program.

18 (c) The department may administer this program through a
19 notice of funding availability that shall not be subject to Chapter
20 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the
21 Government Code.

22 (d) The department shall collect all of the following from each
23 borrower and include a summary of this information in its last
24 annual report submitted to the Legislature on or before December
25 31, 2013, pursuant to Section 50408:

26 (1) A general description of activities undertaken pursuant to
27 this chapter.

28 (2) For each property acquired, the acquisition price; the
29 amount and terms of the nonstate funds leveraged, and a statement
30 as to whether the state acquisition funds were essential to the
31 leveraging of these other acquisition funds; a description of the
32 expiration date of the project's rent or sales restrictions; the
33 number of assisted units created or preserved; the amount of state
34 funds required for each assisted unit created or preserved; and
35 the level of affordability maintained.

36 (3) If any borrower sells any property acquired with assistance
37 through these state funds, a description of the name and location
38 of the purchaser, the purchase price, and the total transaction
39 costs.

1 (4) *A comparison of the cost of creating or preserving units*
2 *under Section 50706 with that of Section 50707.*

3 (5) *An overall assessment of the effectiveness of these funds as*
4 *tools in creating and preserving affordable housing.*

5 SEC. 3. Section 53545.9 is added to the Health and Safety
6 Code, to read:

7 53545.9. Of the one hundred million dollars (\$100,000,000)
8 transferred to the Affordable Housing Innovation Fund established
9 in the State Treasury under subparagraph (F) of paragraph (1) of
10 subdivision (a) of Section 53545, the following amounts shall be
11 allocated as follows:

12 (a) (1) The department shall make available the amount of fifty
13 million dollars (\$50,000,000) for the Affordable Housing
14 Revolving Development and Acquisition Program.

15 (2) Of the amount made available for the program, twenty-five
16 million dollars (\$25,000,000) shall be made available for the Loan
17 Fund and twenty-five million dollars (\$25,000,000) shall be made
18 available for the Practitioner Fund.

19 (b) The department shall make available the amount of five
20 million dollars (\$5,000,000) for the Construction Liability
21 Insurance Reform Pilot Program, which is hereby established in
22 the Department of Housing and Community Development. The
23 purpose of the program is to promote best practices for residential
24 construction quality control in housing programs sponsored by the
25 department or the California Housing Finance Agency, as a means
26 of reducing insurance rates for condominium developers in this
27 state. Funds shall be made available in the form of grants for
28 predevelopment costs of condominium projects funded by the
29 department or the California Housing Finance Agency that utilize
30 enhanced construction oversight and monitoring programs and
31 processes including, but not limited to, video recording of the
32 construction process, use of quality control manuals, and increased
33 quality control inspections.

34 (c) The department shall make available the amount of
35 thirty-five million dollars (\$35,000,000) for the local housing trust
36 fund matching grant program established under Section 50843.5.

37 (1) When awarding grants from the funds allocated under this
38 subdivision to existing trust funds, the department shall grant
39 preference to a housing trust fund that agrees to expend more than

1 65 percent of state funds for the purpose of downpayment
2 assistance to first-time homebuyers.

3 (2) When awarding grants from the funds allocated under this
4 subdivision to newly established housing trust funds, the
5 department shall set aside funding for a period of 36 months from
6 the date funds are first made available for newly established
7 housing trust funds that are in a county with a population of less
8 than 425,000 persons.

9 (d) The department shall make available the amount of five
10 million dollars (\$5,000,000) for the Mobilehome Park Resident
11 Ownership Program established under Chapter 11 (commencing
12 with Section 50780) of Part 2.

13 (e) (1) The School Housing Program is hereby established under
14 the administration of the department.

15 The department shall make available the amount of five million
16 dollars (\$5,000,000) for the School Housing Program.

17 (2) The purpose of the program is to establish a pilot program
18 of assistance to school districts and community college districts
19 attempting to attract and retain district employees through provision
20 of on-campus housing.

21 (3) Funds shall be made available in the form of loans to school
22 districts or community college districts for predevelopment costs
23 associated with creating on-campus housing for district employees.

24 SEC. 4. This act is an urgency statute necessary for the
25 immediate preservation of the public peace, health, or safety within
26 the meaning of Article IV of the Constitution and shall go into
27 immediate effect. The facts constituting the necessity are:

28 In order to make available at the earliest possible time funds to
29 address the state's pressing need for affordable housing, it is
30 necessary that this act take effect immediately.